

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Curt Parrish and Ted Parrish,

Plaintiffs,

v.

Civil No. 10-3175 (JNE/AJB)  
ORDER

ISA Acceptance Corporation,

Defendant.

Plaintiffs filed a Complaint against Defendant on July 30, 2010, alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (2006). In an Order dated March 14, 2012, this Court noted that more than 60 days elapsed since suit was filed, and no appearance had been entered by Defendant. The Court ordered Plaintiff to notify defense counsel that he is required to make an appearance or move for an extension of time to do so, or otherwise Plaintiff must file an application for entry of default. Failure to do so would result in dismissal for lack of prosecution. On April 3, 2012, Plaintiff filed this Motion for Default Judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. “When a party ‘has failed to plead or otherwise defend’ . . . entry of default under Rule 55(a) must precede grant of a default judgment under Rule 55(b).” *Johnson v. Dayton Elec. Mfg. Co.*, 140 F.3d 781, 783 (8th Cir. 1998). Because Plaintiffs have not sought entry of default under Rule 55(a), Plaintiffs’ Motion for Default Judgment [Docket No. 4] is DENIED.

Dated: May 14, 2012

s/ Joan N. Ericksen  
JOAN N. ERICKSEN  
United States District Judge